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EXECUTIVE OFFICE FOR
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| Policy & Case Law Bulletin
January 26, 2018

White House

- [White House Issues Framework on Immigration Reform & Border Security](#)

On January 25, 2018, the White House issued its Framework on Immigration Reform & Border Security, including provisions relating to border security, DACA legalization, protecting the nuclear family, and eliminating the visa lottery program, while repurposing visas to reduce family-based and high-skilled employment backlogs.

Federal Agencies

DOJ

- [Immigration Law Advisor – Winter Edition - EOIR](#)

The feature article in this edition is “The Cuban Adjustment Act of 1966: An Introduction and History,” by Alanna T. Duong, an Attorney Advisor at the Miami Immigration Court. Ten significant court decisions that shaped the field of immigration law in 2017 are also discussed.

- [Virtual Law Library Weekly Update - EOIR](#)

This update includes resources recently added to EOIR’s internal or external Virtual Law Library, including Federal Register Notices, country conditions information, and links to recently-updated immigration law publications.

- [Justice Department Demands Production of Documents and Threatens to Subpoena 23 Jurisdictions as Part of Information Sharing Compliance Review](#)

On January 24, 2018, DOJ sent [letters](#) to 23 jurisdictions demanding that each jurisdiction produce documentation of compliance with federal [information sharing requirements](#) by its law enforcement officers with federal immigration authorities. The letters stated that recipient jurisdictions which fail to respond in a timely manner will be subpoenaed by the DOJ. A DOJ press release stated that failure to comply with information sharing requirements could result in DOJ seeking the return of FY2016 grants, requiring additional conditions for receipt of any FY2017 Byrne JAG funding, and/or jurisdictions being deemed ineligible to receive FY2017 Byrne JAG funding.

- [Justice Department Settles Immigration-Related Discrimination Claim against Ohio Company](#)

On January 23, DOJ announced that it has reached a settlement with Omnicare Inc., a wholly owned subsidiary of CVS Health Corporation and provider of long-term care pharmacy services in Ohio. Pursuant to the settlement, Omnicare Inc. will pay the maximum civil penalty for one instance of citizenship status discrimination, post notices about its workers’ rights under the INA’s anti-discrimination provision, train its staff and its contractors, and be subject to departmental monitoring and reporting requirements for two years.

DHS

- [Waiver Issued to Expedite Border Construction Project in New Mexico](#)

On January 23, 2018, DHS announced that the Secretary of Homeland Security has determined that a waiver is necessary to ensure the expeditious construction of barriers and roads in the vicinity of the international border in the state of New Mexico, near the Santa Teresa, New Mexico port of entry. Notice was published in the [Federal Register](#) on January 22, 2018.

- [DHS Announces Enforcement of Critical Identification Requirements](#)

On January 19, 2018, DHS announced that it will begin enforcing compliance with the Real ID Act on February 5, 2018, to better protect the American people. Fifty-five out of fifty-six states and territories are currently compliant or have received an extension until October 10, 2018. Passengers who have licenses issued by a state or territory that is compliant or has an extension to become compliant with REAL ID requirements may continue to use their licenses as usual. As of January 19, 2018, American Samoa was the only state or territory that had not reached compliance or received an extension.

DOL

- [Labor Department Announces Change in Temporary Employment Certification Process](#)

On January 23, 2018, the Department of Labor announced a process change to better assure fairness regarding the issuance of H-2B temporary labor certifications due to the unprecedented volume of applications received on January 1, 2018.

International

UNHCR

- [UNHCR Releases Guidelines Relating to the Status of Palestinian Refugees](#)

The United Nations Human Rights Commission released its December 2017 Guidelines On International Protection No. 13, which addresses the applicability to Palestinian refugees of Article 1D of the 1951 Convention relating to the Status of Refugees.

Supreme Court

CERT. GRANTED

- [Trump v. Hawaii](#)

No. 17-965, 2018 WL 324357 (U.S. Jan. 19, 2018)

Questions Presented: The Court ordered the parties to brief and argue the following questions presented in the petition for certiorari: 1) Whether respondents' challenge to the President's suspension of entry of aliens abroad is justiciable; 2) Whether Proclamation No. 9645 is a lawful exercise of the President's authority to suspend entry of aliens abroad; and 3) Whether the global injunction is impermissibly overbroad. In addition to the questions presented in the petition for certiorari, the Court directed the parties to brief and argue Question 3 presented by the opposition brief: Whether Proclamation No. 9645 violates the Establishment Clause.

Third Circuit

- [United States v. Wilson](#)

No. 16-3485, 2018 WL 444190 (3d Cir. Jan. 17, 2018) (COV)

The Third Circuit affirmed the district court's sentence, joining its sister circuits in concluding that petitioner's conviction in violation of 18 U.S.C. § 2113(a) (unarmed bank robbery by intimidation) is categorically a crime of violence under the force clause of U.S.S.G. § 4B1.2(a) (same as 18 U.S.C. § 16(a)). The court held that robbing a bank by intimidation necessarily involved "the use, attempted use, or threatened use of physical force," and required intentional or knowing intimidation.

- [Williams v. Att'y Gen. of U.S.](#)

Nos. 16-3816, 17-1705, 2018 WL 473155 (3d Cir. Jan. 19, 2018) (Agg Fel)

The Third Circuit denied the consolidated PFRs, concluding that under the "looser categorical approach," the petitioner's conviction in violation of Ga. Code Ann. § 16-9-1(a) (forgery) constitutes an aggravated felony as "an offense relating to forgery" pursuant to section 101(a)(43)(R) of the Act. The court reasoned that common law forgery and false agency endorsement share a "logical connection" because they "target the same, core criminal conduct such that they are 'directly analogous.'" The court disagreed with the Ninth Circuit's premise expressed in Vizcarra-Ayala v. Mukasey, 514 F.3d 870 (9th Cir. 2008), that the falsity of the instrument must be reflected on its face in order for conduct to "relate to" forgery.

Fourth Circuit

- [United States v. Covington](#)

No. 17-4120, 2018 WL 454909 (4th Cir. Jan. 18, 2018) (COV)

The Fourth Circuit vacated the district court's sentence and remanded, concluding that W. Va. Code § 61-2-9(a) (unlawful wounding) is categorically a crime of violence under the force clause of U.S.S.G. § 4B1.2(a) (same as 18 U.S.C. § 16(a)). The court determined that the district court erred in relying on United States v. Torres-Miguel, 701 F.3d 165 (4th Cir. 2012), as United States v. Castleman, 134 S. Ct. 1405 (2014), had abrogated the direct-versus-indirect-use-of-force distinction articulated in Torres-Miguel. In addition, the district court erred in considering "hypothetical scenarios" from cases that did not interpret the criminal offense at issue in this case.

Fifth Circuit

- [United States v. Johnson](#)

No. 16-60574, 2018 WL 507804 (5th Cir. Jan. 23, 2018) (COV)

The Fifth Circuit affirmed the district court's judgment, concluding in part that petitioner's felony convictions in violation of Miss. Code Ann. § 97-3-117 (armed carjacking) are crimes of violence under U.S.S.G. § 2K2.1(a)(4)(A) ("crime of violence" given the same meaning as U.S.S.G. § 4B1.2(a), which is the same as 18 U.S.C. § 16(a)). The court concluded that, as far as armed carjacking is concerned, the "force or violence" element necessarily entails, at a minimum, the threatened use of violent force.

Sixth Circuit

- [Diaz v. Sessions](#)

No. 17-3669, 2018 WL 443879 (6th Cir. Jan. 17, 2018) (MTR; CAT)

The Sixth Circuit granted the PFR, vacated the Board's order denying petitioner's motion to reopen proceedings based on changed country conditions in Mexico, and remanded. The court concluded that the Board abused its discretion when it found that petitioner failed to present prima facie evidence that her fear of persecution, or the threat to her life or freedom, was related to her family membership because the Board discredited facts in petitioner's evidence when there was no explicit finding that the evidence was "inherently unbelievable." Additionally, the court held that the Board abused its discretion in summarily rejecting petitioner's evidence that she could not safely relocate internally in Mexico and not providing any analysis of the relocation evidence in determining that petitioner failed to present a prima facie showing of eligibility for protection under CAT.

Seventh Circuit

- [**United States v. Mancillas**](#)

No. 17-1254, 2018 WL 505339 (7th Cir. Jan. 23, 2018) (COV)

The Seventh Circuit vacated the district court's sentence and remanded, concluding that petitioner's 2007 conviction in violation of Ind. Code § 35-42-2-9 (strangulation) is a crime of violence under U.S.S.G. § 2K2.1(a)(4)(A) ("crime of violence" given the same meaning as U.S.S.G. § 4B1.2(a), which is the same as 18 U.S.C. § 16(a)) because it "has as an element the use, attempted use, or threatened use of physical force against the person of another."

Eleventh Circuit

- [**Pierre v. U.S. Att'y Gen.**](#)

No. 16-15898, 2018 WL 456205 (11th Cir. Jan. 18, 2018) (CIMT; crime of child abuse)

The Eleventh Circuit denied the PFR, concluding that the Board did not err in determining that petitioner is removable because his conviction in violation of Fla. Stat. § 784.085 (battery of a child by throwing, tossing, projecting, or expelling blood, seminal fluid, urine, or feces) is categorically a crime of child abuse under section 237(a)(2)(E)(i) of the Act. In doing so, the court granted Chevron deference to the Board's interpretation of "child abuse" discussed in *Matter of Velazquez-Herrera*, 24 I&N Dec. 503 (BIA 2008), and *Matter of Soram*, 25 I&N Dec. 378 (BIA 2010). In addition, the court held that the Board did not err in concluding that petitioner is ineligible for cancellation of removal because it agreed that his conviction is categorically a CIMT within the meaning of section 237(a)(2)(A)(i) of the Act.